



Attorney Docket No. 280/016 DC AF / ITW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Brian HARDEN et al.

Art Unit: 1791

Serial No.: 10/647,262

Examiner: Mathieu D. Vargot

Filed: August 26, 2003

Confirmation No. 2074

For: METHOD FOR REPLICATING OPTICAL ELEMENTS,
PARTICULARLY ON A WAFER LEVEL, AND
REPLICAS FORMED THEREBY (AS AMENDED)

REQUEST FOR RECONSIDERATION OF
NOTICE OF PANEL DECISION FROM PRE-APPEAL BRIEF REVIEW

Mail Stop: BOX AF
Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

Applicants hereby request reconsideration of the decision set forth in the Notice of Panel Decision from Pre-Appeal Brief Review mailed on December 3, 2009. This decision states that the Pre-Appeal Brief Request for Review filed 23 November 2009, was improper and a conference will not be held because "no supplemental requests or arguments are acceptable."

BACKGROUND

A NOTICE OF APPEAL and REASONS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW were submitted on September 25, 2009. On November 4, 2009, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review noting that the REQUEST was *improper* as the Notice of Appeal was unsigned.¹ Upon receipt of the Office communication of November 4, 2009, undersigned counsel filed the following documents on November 23, 2009:

- properly signed Notice of Appeal (inclusive of a Petition for Extension of Time and the applicable fees),
- a Pre-Appeal Brief Request for Review, and
- a duplicate copy of the Reasons in Support of Pre-Appeal Brief Request for Review.²

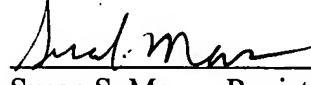
This did not constitute the filing of a supplemental request or argument.

ARGUMENT

In view of the above, it is submitted that the effective date of noting the appeal and filing the Pre-Appeal Brief Request and Reasons in Support is November 23, 2009. This filing was proper under the Rules and accordingly applicant's Request for Pre-Appeal Brief Review should be granted. Accordingly further and favorable action on applicant's Request for Pre-Appeal Brief Review is solicited.

Respectfully submitted,

Date: January 19, 2010



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¹ 37 C.F.R. §1.1.33(b) mandates that "Amendments and other papers *** filed in the application must be signed by *** a registered patent attorney or patent agent of record..." An unsigned amendment or one not properly signed by a person having authority to prosecute the application is not entered. *** The examiner will notify applicant of the status of the application, advising him or her to furnish a duplicate amendment properly signed or to ratify the amendment already filed. [MPEP 1.714.01(a)]

² Other than the date, this document was identical to the REASONS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW which was initially submitted on September 25, 2009.

PETITION and
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying-papers may also be charged to Deposit Account No. 50-1645.